

BEFORE THE DIVISION OF WATER RIGHTS

<p>In The Matter Of:</p> <p>Highland Water Company</p> <p>RESPONDENT</p>	<p>MEASURING DEVICE AND CONTROL STRUCTURE NOTICE</p> <p>SEAA No. 2072 WATER RIGHT: 35-8164</p>
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I. AUTHORITY

The Division of Water Rights ("Division") issues this Notice under UTAH CODE ANN. § 73-5-4, and in accordance with UTAH ADMIN. CODE R. 655-15.

U.C.A. § 73-5-4 states in part :

- (1) To assist the state engineer or water commissioner in the regulation, distribution, and measurement of water, a person using water in this state, ... shall construct or install and maintain controlling works and a measuring device at:*
 - (a) each location where water is diverted from a source; and*
 - (b) any other location required by the state engineer.*
- (2) A person using water in this state shall make the controlling works and measuring device accessible to the state engineer or water commissioner.*
- (3) The state engineer shall approve the design of:*
 - (a) the measuring device; and*
 - (b) controlling works so that the state engineer or a water commissioner may regulate and lock the works. ...*
- (6) If a water user refuses or neglects to construct or install the controlling works or measuring device after 30 days' notice to do so by the state engineer, the state engineer may:*
 - (a) forbid the use of water until the user complies with the state engineer's requirement; and*
 - (b) commence enforcement proceedings authorized by Section 73-2-25.*

II. STATEMENT OF FACTS

1. Respondent diverts water from Gordon Creek, a tributary to the Weber River under the above-referenced water right.
2. Respondent's diversion is regulated by the Water Commissioner and/or Deputy Water Commissioner under the direction of the State Engineer's Office/Division of Water Rights.
3. Respondent operates several diversions associated with this water right. Other turnouts or diversions have measuring devices installed. The diversion known as the Johnson Ditch doesn't have a control structure or measuring device as required.
4. The total company diversion, based on periodic field measurements, will be reported in the water commissioner's annual report each year.

III. ACTIONS REQUIRED

1. Respondent must install a diversion structure with a lockable control gate to control the flow diverted from Gordan Creek to Johnson Ditch.
2. Respondent must install a suitable measuring device on the Johnson Ditch.
3. The measuring device must be suitable for open channel flow with a stilling well to enable a recording of the measurement or gage height.
4. **Work must be completed on or before April 15, 2017, before water is diverted for irrigation use in 2017.**

IV. ADDITIONAL AGENCY ACTION

1. The Respondent is encouraged to diligently attend to the work required by this Notice. If the work is satisfactorily completed in a timely manner, the Division will conclude this agency action.
2. If the work is not satisfactorily completed in a timely manner, the Division may issue an Order forbidding the use of water until the Respondent has complied, or may commence an enforcement action as allowed under Utah Code Ann. § 73-5-4 (6).
3. If an Order forbidding the use of water is issued and is violated by the Respondent, the Division may commence an enforcement action in accordance with Utah Code Ann. § 73-2-25.
4. If determined to be in violation an Order, the Respondent may be subject to administrative penalties in accordance with Utah Code Ann. § 73-2-26, including fines not to exceed \$5,000 per day for knowing violations or \$1,000 per day for unknowing violations and replacement of up to 200% of water diverted without right. In addition, the Respondent may be liable for expenses incurred by the Division in investigating and stopping the violation.”

V. FURTHER INFORMATION

If the Respondent has any questions concerning this Notice, state laws and rules, or the required and recommended action, please discuss them with:

Ross Hansen
Regional Engineer
Western Region
Utah Division of Water Rights
Weber Office
1594 W North Temple Ste 220
P.O. Box 146300
Salt Lake City, UT 84114-6300

(801) 538-7240

or

Ben Anderson
Distribution Engineer
Utah Division of Water Rights
1594 W North Temple Ste 220
P.O. Box 146300
Salt Lake City, UT 84114-6300
(801) 538-7240

Dated this 4th day of October, 2016

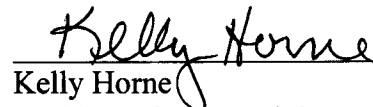


Ben L. Anderson, P.E.
Distribution Engineer

CERTIFICATE OF MAILING

I, the undersigned, certify that on this 4th day of October, 2016, I mailed a copy of the foregoing Notice by regular U.S. Mail, delivery confirmation receipt requested, to the following:

Highland Water Company
5880 N Highland Dr
Mountain Green, UT 84050



Kelly Horne
Division of Water Rights
Field Services Secretary

cc: Ross Hansen, Regional Engineer
Cole Panter, Water Commissioner